No. 9700243

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

NDSU Research Foundation

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED DISTINCT VARIETY OF SEXUALLY REPRODUCED, OR TUBER PROPAGATED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF TWENTY YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE ABOVE PURPOSE , OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT. IN THE UNITED STATES SEED OF THIS VARIETY (1) SHALL BE SOLD BY VARIETY NAME ONLY AS A CLASS OF CERTIFIED SEED AND (2) SHALL CONFORM TO THE NUMBER OF GENERATIONS SPECIFIED BY THE OWNER OF THE [illegible] STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

BARLEY

'CONLON'

In Testimony Whereof, I have hereunto set my hand and caused the seal of the Plant Variety Protection Office to be affixed at the City of Washington, D.C. this fifth day of February, in the year two thousand two.

Attest:

Commissioner
Plant Variety Protection Office
Agricultural Marketing Service

Secretary of Agriculture

REPRODUCE LOCALLY. *Include form number and date on all reproductions.* FORM APPROVED - OMB NO. 0581-0055

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SCIENCE AND TECHNOLOGY DIVISION - PLANT VARIETY PROTECTION OFFICE

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

(Instructions and information collection burden statement on reverse)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).

1. NAME OF APPLICANT(S) *(as it is to appear on the Certificate)*
NDSU Research Foundation

2. TEMPORARY DESIGNATION OR EXPERIMENTAL NUMBER
ND13299

3. VARIETY NAME
'CONLON'

4. ADDRESS *(Street and No., or R.F.D. No., City, State, and ZIP Code, and Country)*
c/o Executive Director
PO Box 5014
Fargo, ND 58105-5014

5. TELEPHONE *(include area code)*
701-231-8931

6. FAX *(include area code)*
701-231-1013

FOR OFFICIAL USE ONLY

PVPO NUMBER 9700243

FILING DATE: March 25, 1997

7. GENUS AND SPECIES NAME
Hordeum vulgare L.

8. FAMILY NAME *(Botanical)*
Gramineae

9. CROP KIND NAME *(Common name)*
Barley

FEES RECEIVED

FILING AND EXAMINATION FEE: $ 2,450.00
DATE: Mar. 25, 1997

CERTIFICATION FEE: $ 320.00
DATE: 1-17-02

10. IF THE APPLICANT NAMED IS NOT A "PERSON", GIVE FORM OF ORGANIZATION *(corporation, partnership, association, etc.) (Common name)*
501(c)(3) Corporation - NDSU Research Foundation

11. IF INCORPORATED, GIVE STATE OF INCORPORATION
North Dakota

12. DATE OF INCORPORATION
May, 1989

13. NAME AND ADDRESS OF APPLICANT REPRESENTATIVE(S), IF ANY, TO SERVE IN THIS APPLICATION AND RECEIVE ALL PAPERS

Jerome D. Franckowiak
Department of Plant Sciences
North Dakota State University
PO Box 5051
Fargo, ND 58105-5051

Dale Zetocha
Executive Director
NDSU Research Foundation
PO Box 5014
Fargo, ND 58105-5014

14. TELEPHONE *(include area code)*
701-231-7540

15. FAX *(include area code)*
701-231-8474

16. CHECK APPROPRIATE BOX FOR EACH ATTACHMENT SUBMITTED *(Follow instructions on reverse)*

- a. ☒ Exhibit A. Origin and Breeding History of the Variety
- b. ☒ Exhibit B. Statement of Distinctness
- c. ☒ Exhibit C. Objective Description of the Variety
- d. ☒ Exhibit D. Additional Description of the Variety *(Optional)*
- e. ☒ Exhibit E. Statement of the Basis of the Applicant's Ownership
- f. ☒ Voucher Sample *(2,500 viable untreated seeds or, for tuber propagated varieties verification that tissue culture will be deposited and maintained in an approved public repository)*
- g. ☒ Filing and Examination Fee ($2,450), made payable to "Treasurer of the United States" *(Mail to PVPO)*

17. DOES THE APPLICANT SPECIFY THAT SEED OF THIS VARIETY BE SOLD BY VARIETY NAME ONLY, AS A CLASS OF CERTIFIED SEED? *(See Section 83(a) of the Plant Variety Protection Act)*
☒ YES *(If "yes," answer items 18 and 19 below)* ☐ NO *(If "no," go to item 20)*

18. DOES THE APPLICANT SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS?
☒ YES ☐ NO

19. IF "YES" TO ITEM 18, WHICH CLASSES OF PRODUCTION BEYOND BREEDER SEED?
☒ FOUNDATION ☒ REGISTERED ☒ CERTIFIED

20. HAS THE VARIETY OR A HYBRID PRODUCED FROM THE VARIETY BEEN RELEASED, USED, OFFERED FOR SALE, OR MARKETED IN THE U.S. OR OTHER COUNTRIES?
☒ YES *(If "yes," give names of countries and dates)* ☐ NO
USA-Release date April 4, 1996
USA-First seed sale October 1, 1996

21. The applicant(s) declare that a viable sample of basic seed of the variety will be furnished with application and will be replenished upon request in accordance with such regulations as may be applicable, or for a tuber propagated variety a tissue culture will be deposited in a public repository and maintained for the duration of the certificate.

The undersigned applicant(s) is(are) the owner(s) of this sexually reproduced or tuber propagated plant variety, and believe(s) that the variety is new, distinct, uniform, and stable as required in Section 42, and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act.

Applicant(s) is(are) informed that false representation herein can jeopardize protection and result in penalties.

SIGNATURE OF APPLICANT *(Owner(s))*		SIGNATURE OF APPLICANT *(Owner(s))*	
Dale Zetocha			
NAME *(Please print or type)*		NAME *(Please print or type)*	
Dale Zetocha			
CAPACITY OR TITLE	DATE	CAPACITY OR TITLE	DATE
Executive Director NDSU Research Foundation	3/21/97		

EXHIBIT A - ORIGIN AND BREEDING HISTORY

'CONLON'

The original cross (C2-88-207) was made at North Dakota State University (NDSU), Fargo, ND in the 1988 fall greenhouse nursery. The cross C2-88-207 was made between an F_3 plant from the cross Bowman*2/DWS1008 as the female parent and ND10232 as the male parent. DWS1008 is a semidwarf mutant, which was isolated in the cultivar Birgitta in Sweden by L.C. Lehmann. TR479 (Norbert/MT547143) was bred at Saskatoon, Canada and released as the two-rowed cultivar Stein. ND10232 was selected from the cross TR479/ND8742; and ND8742 was selected from the cross ND586/CIho 2376//ND4880/3/ND5993. Both ND8742 and ND10232 appear to have resistance to barley yellow dwarf virus (BYDV) from CIho 2376. ND5993 was selected from a cross between sister lines selected from the cross Klages//Fergus/Nordic. ND586 is from a complex series of interspecfic crosses and is held in the Small Grains Collection as CIho 15859. ND4880 was selected from the cross Klages/ND1351. Nordic and ND1351 are a six-rowed cultivars while the other parents are two-rowed cultivars and lines.

ND13299 is an F_3 derived selection made in 1991 from the cross C2-88-207, which was made to study a semidwarf gene in locally adapted germplasm. ND13299 was selected as a control line and does not have the semidwarf gene or the *Ryd2* gene for BYDV resistance from ND10232. ND13299 has a white aleurone, long rachilla hairs, and smooth awns. In appearance and plant height ND13299 is similar to Bowman. In fall greenhouse nurseries, however, ND13299 heads 7 to 10 days later than Bowman. Also, ND13299 lacks barbs on the lateral veins of the lemma while Bowman has teeth. Stability and uniformity for these triats and general appearance has been observed in yield trials and increase plots for four years (1993 to 1996). In recent observations (1997 to 1999), Conlon continues to be uniform for the above traiats.

Agronomic and yield data were collected for ND13299 from trials grown in North Dakota in 1991 to 1995. Most comparisons were made with Bowman because ND13299 was released as a possible replacement for Bowman in western North Dakota. ND13299 averaged 19% higher in yield compared to Bowman and 3% lower than Hazen. ND13299 is more resistant to new pathotypes of *Pyrenophora teres* and *Cochliobolus sativus* than Bowman, but less resistant than Hazen to *C. sativus*. ND13299 headed about one day earlier than Bowman and three days earlier than Hazen in these trials. ND13299 was equal to Bowman in height, but it had slightly higher lodging scores.

Data from micromalting tests were collected for ND13299 using seed lots grown in North Dakota from 1991 to 1994. Data comparisons showed that ND13299 was 2% higher than Bowman in malt extract and nearly 20 point higher in diastatic power even though the grain protein level was about a half percent lower. Samples of ND13299 were submitted in 1994 and 1995 for pilot scale quality tests conducted by the American Malting Barley Association (AMBA) and were rated as satisfactory.

ND13299 was released by the North Dakota Agricultural Experiment Station in April 1996 and the name Conlon was recommended. Conlon will be classified by AMBA as a two-rowed non-malting barley until further malt quality tests are conducted and the results evaluated. During the summer of 1996, foundation seed was planted to produce the registered class of seed.

The named Conlon was chosen to honor Thomas J. Conlon (1921-1995), former superintendent of the Dickinson Experiment Station. Mr. Conlon was the agronomist at the station from 1948 to 1969 and superintendent from 1969 to 1991. He was responsible for expansion of the station and its research activities and the introduction of improved cropping systems to area farmers. Mr. Conlon's support was instrumental in establishment of the two-rowed barley breeding program at NDSU and he strongly encouraged utilization of Bowman, the first two-rowed barley variety developed for western North Dakota.

Conlon appeared uniform for all traits except for black seed. The original seed lot used as breeder's seed contain a very low frequence (less than one per 20,000 seeds) of kernels with a black lemma and pericarp. This contamination is believed have resulted from outcrossing to genetic stocks carrying the *Blp1.a* allele for very black lemma and pericarp. No other variants or off-type plants have been observed over the past three years.

EXHIBIT B - NOVELTY STATEMENT

To my knowledge, Conlon resembles Bowman barley more than any other two-rowed barley cultivar. Both cultivars have a spring growth habit and head earlier in North Dakota than other two-rowed barley cultivars, which lack the *Eam1* gene for strong photoperiod response. Both cultivars have large, plump kernels; long rachilla hairs; little red anthocyanin pigmentation of vegetative plant parts; and relatively short, strap-shaped spikes. Conlon has smooth awns and lacks barbs on the lateral veins of the lemma, while Bowman has semismooth awns and teeth on lateral veins of the lemma. The disease reactions of Conlon and Logan, another recent release from NDSU, are similar. Both cultivars have the *Mlk* gene for resistance to powdery mildew, incited by *Erysiphe graminis* f. sp. *hordei,* and are resistant to several isolates *Pyrenophora teres* and *Cochliobolus sativus.* The disease reactions of Logan and Conlon may differ because Conlon is reported to have the *mlg* for powdery mildew resistance and it is less resistant to *C. sativus*. Logan has semicompact spikes, red anthocyanin pigment at the base of the sheath, semismooth awns, wider leaves, and teeth on lateral veins of the lemma.

FORM APPROVED: OMB NO. 40-R3822

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
LIVESTOCK AND SEED DIVISION
BELTSVILLE, MARYLAND 20705

EXHIBIT C
(Barley)

OBJECTIVE DESCRIPTION OF VARIETY
BARLEY (*HORDEUM VULGARE*)

INSTRUCTIONS: *See Reverse.*

NAME OF APPLICANT(S)
NDSU Research Foundation

ADDRESS (*Street and No. or R.F.D. No., City, State, and ZIP Code*)
Box 5014
Fargo, ND 58105-5014

FOR OFFICIAL USE ONLY
PVPO NUMBER
9700243
VARIETY NAME OR TEMPORARY DESIGNATION

Place the appropriate number that describes the varietal character of this variety in the boxes below.
Place a zero in first box (i.e. [0][8][9] or [0][9]) when number is either 99 or less or 9 or less.

1. GROWTH HABIT:

[1] 1 = SPRING 2 = FACULTATIVE WINTER 3 = WINTER [3] Early Growth: 1 = PROSTRATE 2 = SEMIPROSTRATE 3 = ERECT

2. MATURITY (50% Flowering):

[2] 1 = EARLY (California Mariout) 2 = MIDSEASON (Betzes) 3 = LATE (Frontier)

[6] No. of days *Earlier* than ..... [1]
[ ] No. of days *Later* than ..... [ ]
1 = BETZES 2 = CALIFORNIA MARIOUT 3 = CONQUEST 4 = DICKSON 5 = PIROLINE 6 = PRIMUS 7 = UNITAN

3. PLANT HEIGHT (From soil level to top of head):

[3] 1 = SEMIDWARF 2 = SHORT (California Mariout) 3 = MEDIUM TALL (Betzes) 4 = TALL (Conquest)

[0][8] Cm. *Shorter* than ..... [5]
[ ][ ] Cm. *Taller* than ..... [ ]
1 = BETZES 2 = CALIFORNIA MARIOUT 3 = CONQUEST 4 = DICKSON 5 = PIROLINE 6 = PRIMUS 7 = UNITAN

4. STEM:

[2] Exertion (*Flag to spike at maturity*): 1 = 0 - 3 cm. 2 = 3 - 10 cm. 3 = 10 - 15 cm. [2] Anthocyanin: 1 = ABSENT 2 = PRESENT

[0][5] NO. OF NODES (Originating from node above ground)

[1] Collar Shape: 1 = CLOSED 2 = V-SHAPED 3 = OPEN 4 = MODIFIED CLOSED OR OPEN [1] Shape of Neck: 1 = STRAIGHT 2 = SNAKY 3 = OTHER (Specify) _____

5. LEAF:

[1] Basal leaf sheath (*seedling*): 1 = GLABROUS 2 = PUBESCENT [2] Position of flag leaf (*at boot stage*): 1 = DROOPING 2 = UPRIGHT

[3] Waxiness: 1 = ABSENT (Glossy) 2 = SLIGHTLY WAXY 3 = WAXY [1][2] MM. WIDTH (First leaf below flag leaf)

[2][5] CM. LENGTH (First leaf below flag leaf) [1] Anthocyanin in leaf sheath: 1 = ABSENT 2 = PRESENT

6. HEAD:

[1] Type: 1 = TWO-ROWED 2 = SIX-ROWED [2] Density: 1 = LAX 2 = ERECT (Not dense) 3 = ERECT (Dense)

[2] Shape: 1 = TAPERING 2 = STRAP 3 = CLAVATE 4 = OTHER (Specify) _____ [3] Waxiness: 1 = ABSENT (Glossy) 2 = SLIGHTLY WAXY 3 = WAXY

[1] Lateral Kernels Overlap: 1 = NONE 2 = AT TIP 3 = 1/4 - 1/2 OF HEAD [2] Rachis (*Hair on edge*): 1 = LACKING 2 = FEW 3 = COVERED

7. GLUME:

[2] Length: 1 = 1/3 OF LEMMA 2 = 1/2 OF LEMMA 3 = MORE THAN 1/2 OF LEMMA [3] Hairs: 1 = NONE 2 = SHORT 3 = LONG

[3] Hair covering: 1 = NONE 2 = RESTRICTED TO MIDDLE 3 = CONFINED TO BAND 4 = COMPLETELY COVERED

[2] Awns: 1 = LESS THAN EQUAL TO LENGTH OF GLUMES 2 = EQUAL TO LENGTH OF GLUMES 3 = MORE THAN EQUAL TO LENGTH OF GLUMES

[1] Awn Surface: 1 = SMOOTH 2 = SEMISMOOTH 3 = ROUGH

9700243

8. LEMMA:

[5] Awn: 1 = AWNLESS 2 = AWNLETS ON CENTRAL ROWS, AWNLESS ON LATERAL ROWS 3 = SHORT ON CENTRAL ROWS, AWNLETS ON LATERAL ROWS 4 = SHORT (less than equal to length of spike) 5 = LONG (longer than spike) 6 = HOODED

[2] Awn Surface: 1 = AWNLESS 2 = SMOOTH 3 = SEMISMOOTH 4 = ROUGH

[1] Teeth: 1 = ABSENT 2 = FEW 3 = NUMEROUS

[1] Hair: 1 = ABSENT 2 = PRESENT

[1] Shape of base: 1 = DEPRESSION 2 = SLIGHT CREASE 3 = TRANSVERSE CREASE

[2] Rachilla Hairs: 1 = SHORT 2 = LONG

9. STIGMA:

[1] Hairs: 1 = FEW 2 = MANY

10. SEED:

[2] Type: 1 = NAKED 2 = COVERED

[1] Hairs on Ventral Furrow: 1 = ABSENT 2 = PRESENT

[4] Length: 1 = SHORT (8.0 mm.) 2 = SHORT TO MIDLONG (7.5 - 9.0 mm.) 3 = MIDLONG (8.5 - 9.5 mm.) 4 = MIDLONG TO LONG (9.0 - 10.5 mm.) 5 = LONG (10.0 mm.)

[3] Wrinkling of hull: 1 = NAKED 2 = SLIGHTLY WRINKLED 3 = SEMIWRINKLED 4 = WRINKLED

[1] Aleurone Color: 1 = COLORLESS (White or Yellow) 2 = BLUE

[0][2] PERCENT ABORTIVE

[4][6] GMS. PER 1000 SEEDS

11. DISEASE: (0 = Not Tested, 1 = Susceptible, 2 = Resistant)

[1] SEPTORIA	[2] NET BLOTCH	[1] SPOT BLOTCH	[2] POWDERY MILDEW
[1] LOOSE SMUT	[2] BACTERIAL BLIGHT	[1] COVERED SMUT	[0] FALSE LOOSE SMUT
[1] STEM RUST QCC	[1] LEAF RUST	[1] SCAB	[1] SCALD
[0] AY	[2] BSMV	[1] BYDV	[ ] OTHER (Specify)

12. INSECT: (0 = Not tested, 1 = Susceptible, 2 = Resistant)

[1] GREEN BUG	[1] ENGLISH GRAIN APHID	[0] CHINCH BUG	[0] ARMYWORM
[00] GRASS HOPPERS	[0] CEREAL LEAF BEETLE	[ ] OTHER (Specify)	

HESSIAN FLY RACES: [ ] GP [ ] A [ ] B [ ] C [ ] D [ ] E [ ] F [ ] G

13. CHEMICAL (0 = Not Tested, 1 = Susceptible, 2 = Resistant)

[0] DDT [ ] OTHER (Specify)

14. INDICATE WHICH VARIETY MOST CLOSELY RESEMBLES THAT SUBMITTED:

CHARACTER	NAME OF VARIETY	CHARACTER	NAME OF VARIETY
Plant tillering	Bowman	Seed size	Bowman
Leaf size	Stark	Coleoptile elongation	Bowman
Leaf color	Bowman	Seedling pigmentation	Bowman
Leaf carriage	Bowman		

REFERENCES: The following publications may be used as a reference aid for the standardization of character descriptions and terms used in this form:

1. Wiebe, G. A., and D. A. Reid, 1961, Classification of Barley Varieties Grown in the United States and Canada in 1958, Technical Bulletin No. 1224, U.S. Dept. of Agriculture.
2. Reid, D. A., and G. A. Wiebe, 1968, Barley: Origin, Botany, Culture, Winter Hardiness, Genetics, Utilization, Pests, Agriculture Handbook No. 338, U.S. Dept. of Agriculture. pp. 61 - 84.
3. Malting Barley Improvement Association, Milwaukee, Wisconsin, 1971, Barley Variety Dictionary.

COLOR: Nickerson's or any recognized color fan may be used to determine color of the described variety.

REPRODUCE LOCALLY. *Include form number and date on all reproductions.* FORM APPROVED - OMB NO. 0581-0055 9700243 EXPIRES: 12-31-96

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SCIENCE AND TECHNOLOGY DIVISION - PLANT VARIETY PROTECTION OFFICE

EXHIBIT E
STATEMENT OF THE BASIS OF OWNERSHIP

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.

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1. NAME OF APPLICANT(S)	2. TEMPORARY DESIGNATION OR EXPERIMENTAL NUMBER	3. VARIETY NAME
NDSU Research Foundation	ND13299	'CONLON'

4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country)	5. TELEPHONE (Include area code)	6. FAX (Include area code)
c/o Executive Director PO Box 5014 Fargo, ND 58105-5014	701-231-8931	701-231-1013
	7. PVPO NUMBER	

8. Does the applicant own all rights to the variety? *Mark an "X" in appropriate block.* If no, please explain. [X] YES [ ] NO

9. Is the applicant (individual or company) a U.S. national or U.S. based company? If no, give name of country _____ [X] YES [ ] NO

10. Is the applicant the original breeder? If no, please answer the following: [ ] YES [X] NO

a. If original rights to variety were owned by individual(s): Is (are) the original breeder(s) a U.S. national(s)? If no, give name of country Yes

b. If original rights to variety were owned by a company: Is the original breeder(s) U.S. based company? If no, give name of country _____ [ ] YES [ ] NO

11. Additional explantion on ownership *(If needed, use reverse for extra space):*

See additional Exhibit E Statement of the Basis of the Applicant's Ownership included in this application.

PLEASE NOTE:

Plant variety protection can be afforded only to owners (not licensees) who meet one of the following criteria:

1. **If the rights to the variety are owned by the original breeder, that person must be a U.S. national, national of a UPOV member country, or national of a country which affords similar protection to nationals of the U.S. for the same genus and species.**

2. **If the rights to the variety are owned by the company which employed the original breeder(s), the company must be U.S. based, owned by nationals of a UPOV member country, or owned by nationals of a country which affords similar protection to nationals of the U.S. for the same genus and species.**

3. **If the applicant is an owner who is not the original breeder, both the original breeder and the applicant must meet one of the above criteria.**

The original breeder may be the individual or company who directed final breeding. See Section 41(a)(2) of the Plant Variety Protection Act for definition.

EXHIBIT E -

STATEMENT OF THE BASIS OF THE APPLICANT'S OWNERSHIP

Dr. Jerome D. Franckowiak, an employee of the North Dakota Agricultural Experiment Station and North Dakota State University, is the plant breeder who developed the cultivar 'CONLON' two-rowed spring barley for which Plant Variety Protection is hereby sought. The employee by agreement and because of the condition of the use of facilities and funds of the North Dakota Agricultural Experiment Station and North Dakota State University has assigned all ownership rights to 'CONLON' barley to the North Dakota Agricultural Experiment Station and North Dakota State University.

North Dakota State University on behalf of the North Dakota Agricultural Experiment Station has assigned all ownership rights to the NDSU Research Foundation. The NDSU Research Foundation is a nonprofit corporation set up to own and manage the intellectual property of North Dakota State University.